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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/774,674 | 02/09/2004 | Mathew J. Robertson | 50576.1.1.3 | 9437 |
| 22859 | 7590 | 07/05/2006 | EXAMINER | |
| INTELLECTUAL PROPERTY GROUP FREDRIKSON & BYRON, P.A. 200 SOUTH SIXTH STREET SUITE 4000 MINNEAPOLIS, MN 55402 | | | TON, ANABEL | |
| | | ART UNIT | PAPER NUMBER | 2875 |
| DATE MAILED: 07/05/2006 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|----------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/774,674 | ROBERTSON, MATHEW J. |
| | Examiner | Art Unit |
| | Anabel M. Ton | 2875 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 May 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-4,9 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-4,9,11-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of claims 5-7,9,12-15 is withdrawn in view of the newly discovered reference(s) to Wall (3,624,385). Rejections based on the newly cited reference(s) follow.

Claim Objections

2. Claim 11 is objected to because of the following informalities: Claim 11 depends on claim 10, which has been cancelled. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,3-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Wall (3,624,385).

5. Wall discloses at least one open flower display, a lighting device having a power source, a light source driven by the power source to emit light; and an array of optical fibers directly receiving light emitted by said light source, said array of optical fibers transmitting said light to illuminate the at least one flower, wherein the flower display is a

corsage (figs 2-3, col. 2 lines 31-38); a switch to turn the light source on and off (60); the power source is at least one battery (56); securing means to fasten the lighting device and the at least one flower to clothing (as shown in figure 2, the flower and light source/fiber optic device is attached to clothing therefore the device of Wall is considered to inherently have a means to fasten the device to clothing).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2,11,12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wall (3,624,385).

8. With regards to claims 2 and 12, Wall discloses all the elements (see 102(b) rejection above) of the claimed instant invention except for the recitation of the light source being a light emitting diode. The examiner takes Official Notice that the use of LEDs is old and well known in the illumination art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute an LED for the light source in the system of Wall. One would have been motivated since LEDs are recognized in the illumination art to have many desirable advantages, including reduced size, high efficiency, low power consumption, long life, resistance to vibrations, and low heat production, over other light sources.

9. With regards to claim 11, Wall discloses all the elements of the instant invention except for the recitation of the flower display being a bouquet. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a multiple amount of flowers to make a bouquet since it has been held that mere duplication of essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. In this case a multiple amount of flowers would add to the aesthetic value of the illuminated device (for additional teachings regarding illuminated bouquets, see Yang (6,918,692)).

10. With regards to claims 14 and 15, Wall discloses all the elements of the instant invention except for the recitation of the flower display being a wristlet or a boutonniere. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Wall to be used as a boutonniere or wristlet since Wall discloses that fiber optical device in a single spray (16) is worn as a component of a corsage (20) or other decorative accessory. Since a boutonniere or wristlet is within the realm of decorative accessories as that of a corsage, it would have been obvious to one of ordinary skill to implement the fiber optic device of Wall as a component of a boutonniere or a wristlet.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M. Ton whose telephone number is (571) 272-2382. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anabel M Ton
Examiner
Art Unit 2875

AMT



Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800